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HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : Hon'ble Justice Shri Satish K. Agnihotri

Writ Petition (C) No. 2174 of 2007

Petitioner Plaintiff	Jagdeo Singh Thakur, S/o Raghunath Singh Thakur, Aged about 66 years, R/o Dondi Lohara, Distt. Durg (CG).
	Versus
Respondents Defendants	1) Smt. Sunder Bai, Widow of Champalal Jain. 2) Deepchand, S/o Late Champalal Jain. 3) Todarmal, S/o Late Champalal Jain. 4) Bhagchand, S/o Late Champalal Jain. 5) Lunkaran, S/o Late Champalal Jain. 6) Santosh, S/o Late Champalal Jain. (All R/o Tahsil Dondi Lohara, Near Nagar Panchayat, Dondi Lohara, Distt. Durg (C.G.). 7) Smt. Dhelabai, W/o Mahavir Sancheti, R/o Shanichari Bazar, Durg, Tahsil and Distt. Durg (C.G.). 8) Smt. Nirmala Bai, W/o Narendra Baradiya, R/o Sadar Bazar, Dhamtari, Tahsil Dhamtari, Distt. Raipur (C.G.). 9) State of Chhattisgarh, Through the Tahsildar, Daundilohara, District Durg (C.G.).

Present :- Shri P. Diwakar, Sr. Advocate with Shri P.R. Patankar, counsel for the petitioner.

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ORDER
(Passed on 10th April, 2007)

By this petition under Article 227 of the Constitution of India, the petitioner impugns the order dated 23-2-2007 (Annexure-P/11) passed by the Civil Judge Class-I, Balod, District Durg, in civil suit No.20-A/2005 whereunder the application filed under Order I Rule 10 of the Code of Civil Procedure (for short "the Code") was rejected.

2) The indisputable facts in nutshell are that the petitioner has filed an application under Order I Rule 10 of the Code to implead the legal heirs/representatives of the original seller Shreeram on the ground that they are the necessary parties. The Civil Judge Class-I vide order dated 23-2-2007, after having heard learned counsel appearing for the plaintiff and defendants, observed that in the original suit for declaration of ownership, permanent injunction and possession no relief was sought for against Shreeram and his legal heirs/representatives. The suit was filed in the year 1991. For more than 15 years no attempt was made to bring legal heirs/representatives on record. Since no relief has been claimed against Shreeram and his legal heirs/representatives, the impleadment of the legal heirs/representatives in the suit is not necessary at this stage, as they are not the necessary parties. Thus, in exercise of his power under provisions of Order 1 Rule 10 (2) of the Code, the application was rejected with cost of Rs.100/-.

3) I have heard learned counsel for the petitioner and carefully gone through the pleadings, impugned order and other documents appended thereto.

4) It is well settled principle of law that under Article 227 of the Constitution of India, this Court has jurisdiction of judicial review of the order passed by the Court below, in the event, there is manifest and apparent error on the fact of the proceedings based on the clear

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ignorance or utter disregard to the provisions of law of there is grave failure of justice or grave injustice has occasioned thereby. Further, this Court can also entertain the petition in its supervisory jurisdiction if there is perversity, irregularity or illegality in the process of decision, not in the decision itself.

5) Applying the above settled principles of law to the facts of the present case, it does not warrant interference with the order passed by the Court below.

6) As a result and in view of the foregoing, the petition deserves to be dismissed and is accordingly dismissed.

Sd/-
Satish K. Agnihotri
Judge

Gowri